

Message Text

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ACTION OPIC-12

INFO OCT-01 NEA-14 ISO-00 AGR-20 AID-20 CIAE-00 COME-00

EB-11 FRB-02 INR-10 NSAE-00 TRSE-00 XMB-07 SP-03

CIEP-02 LAB-06 SIL-01 OMB-01 IGA-02 L-03 PM-07 NSC-07

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FM AMEMBASSY DACCA

TO SECSTATE WASHDC 3370

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E.O. 11652: N/A

TAGS: EFIN, BG

SUBJ: OPIC INVESTMENT INCENTIVE AGREEMENT

REF: A. DACCA 5315 B. STATE 000025

BEGIN SUMMARY: PROPOSED OPIC AGREEMENT MOVING TOWARD FINAL CONSIDERATION BY BANGLADESH GOVERNMENT. FOUR QUESTIONS RAISED INFORMALLY INCLUDING ONE RELATING INDIRECTLY TO ACCEPTANCE OF LIABILITY BY BDG ON COOLEY LOANS TO JUTE MILL AND HOTEL HERE DURING PAKISTAN PERIOD. SQUIBB AND GILLETTE BOTH INTERESTED IN EARLY CONCLUSION OF AGREEMENT. END SUMMARY.

1. BDG HAS YET TO RESPOND TO EXCHANGE OF NOTES PROPOSED DECEMBER 1973 WHICH WOULD EXTEND TO BANGLADESH OPIC FACILITIES. AS HAS BEEN REPORTED INFORMALLY TO OPIC AND NEA/PAB, WE HAVE IN LOW KEY REMINDED VARIOUS ELEMENTS OF BDG OF OUTSTANDING MATTER. AGREEMENT HAD BEEN PASSED AROUND BDG, BUT ONLY IN APRIL WAS IT REFERRED TO A PART OF GOVERNMENT WHICH HAS EMERGED AS A PRIMARY FORCE IN CONSIDERATION OF ISSUE: THE DIVISION OF MINISTRY OF INDUSTRIES WHICH HANDLES NON-NATIONALIZED INDUSTRIES. THIS PART IS ALSO HEADED BY A SECRETARY, GHULAM MUSTAFA. UNDER HIM RATHER THAN SECRETARY, NATIONALIZED INDUSTRIES DIVISION (MATIUR RAHMAN),

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COMES THE DIRECTOR GENERAL OF INDUSTRIES WHO IS MEMBER-SECRETARY,

INVESTMENT BOARD (FOREIGN AND DOMESTIC).

2. EMBOFF THOROUGHLY BRIEFED GHULAM MUSTAFA ON OPIC IN MAY WHEN IT WAS LEARNED THAT OPIC AGREEMENT HAD FINALLY REACHED HIS OFFICE. AT THAT TIME HE SAID INVESTMENT BOARD WOULD MEET SHORTLY AND CONSIDER AGREEMENT. IN A FURTHER CALL ON MUSTAFA JUNE 6, HE CONFIRMED BOARD HAD CONSIDERED AGREEMENT AND A FORMAL COORDINATED RESPONSE OF BDG TO PROPOSED EXCHANGE OF NOTES WOULD BE FORTHCOMING "SHORTLY" (BANGLADESH TIME).

3. MUSTAFA ADVISED INFORMALLY THAT FOUR ISSUES MIGHT BE RAISED IN CONNECTION WITH THE PROPOSED AGREEMENT. (ISSUES DISCUSSED REFEELS NOT RPT NOT BROUGHT UP.) A) PARA TWO OF AGREEMENT EXTENDS APPLICATION THEREOF BACK IN TIME TO OPIC COVERAGE ISSUED DURING PAKISTAN PERIOD. BDG MAY OBJECT TO RETROACTIVE EFFECT; WANTS AGREEMENT TO BE EFFECTIVE FROM DATE OF SIGNATURE. B) RE PARA FIVE AND LOCAL CURRENCY WHICH MAY BE ACQUIRED BY OPIC IN BANGLADESH, BDG DOES NOT WANT SUCH MONEY TO "BE FREELY AVAILABLE TO ISSUING GOVERNMENT". INSTEAD DESIRES USE BY USG TO BE SUBJECT TO MUTUAL AGREEMENT. C) IN PARA 6 (A) BDG DOES NOT WANT DIFFERENCES BETWEEN HOST AND ISSUING GOVERNMENT WHICH CANNOT BE RESOLVED WITHIN THREE MONTHS, TO BE AUTOMATICALLY SUBMITTED AT THAT POINT TO AN ARBITRAL TRIBUNAL. DESIRES INSTEAD TO ALLOW PERIOD OF INTER-GOVERNMENT

DISCUSSION TO BE EXTENDED BEYOND THREE MONTHS BY MUTUAL AGREEMENT. D) BDG SOMEWHAT BOTHERED BY IMPLICATION IN PARA 6 THAT BASIS OF COMPENSATION BY BDG FOR NATIONALIZED FOREIGN PROPERTIES CAN BE QUESTIONED BY USG. FEELS THAT BANGLADESH LAW MUST PREVAIL HERE AND AUTHORITY OF PARLIAMENT TO PASS SUCH LAWS MUST NOT BE IMPUGNED. NO PRECISE CHANGES OF LANGUAGE SUGGESTED BY MUSTAFA BUT SUSPECT SUCH WILL BE WHEN NEGOTIATIONS OPENED.

4. EMBOFF COMMENTED THAT WE WOULD TAKE BDG SUGGESTIONS UNDER CONSIDERATION WHEN FORMALLY MADE. HE RESERVED JUDGEMENT ON POINTS RAISED BUT INDICATED THAT MATTER OF RETROSPECTIVE EFFECT OF AGREEMENT MIGHT BE PROBLEMATIC. IN THIS CONNECTION REFERRED TO STILL OUTSTANDING ISSUE OF ACCEPTANCE BY BDG OF LIABILITY FOR LOCAL-CURRENCY COOLEY LOANS-TO BANGLADESH FABRICS JUTE MILL AND BANGLADESH SERVICES LTD. (HOTEL INTERCONTINENTAL). EMBASSY LETTER OF FEBRUARY 22, 1973 (COPY SENT OPIC) TO EXTERNAL RESOURCES DIVISION, LIMITED OFFICIAL USE

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PLANNING COMMISSION, WHICH HANDLING DEBT ISSUE, HAS YET TO ELICIT RESPONSE. THOUGH MUSTAFA DID NOT WISH TO LINK DEBT QUESTION TO NEW OPIC AGREEMENT. EMBOFF EMPHASIZED EARLY RESOLUTION OF THIS QUESTION

MIGHT POSSIBLY AFFECT STRENGTH OF USG INSISTENCE ON RETROSPECTIVE EFFECT OF NEW AGREEMENT.

5. OCCASION FOR RAISING MATTER OF OPIC AGREEMENT WAS PROVIDED BY

TWO DEVELOPMENTS. FIRST IS OPIC-SQUIBB AGREEMENT RE RESCHEDULING OF PAYMENTS ON OUTSTANDING COOLEY LOAN TO SQUIBB/BANGLADESH JOINT VENTURE WITH BDG. OPIC DESIRES APPROVAL OF NEW AGREEMENT BY BDG. WHICH PRESUMABLY WOULD BE EASIER TO GIVE IF OVERALL INCENTIVE AGREEMENT WERE TO BE CONCLUDED. OTHER DEVELOPMENT IS PROPOSAL BY GILLETTE RAZOR BLADES TO ENTER JOINT VENTURE WITH PUBLIC-SECTOR BANGLADESH ENGINEERING AND SHIPBUILDING CORP. GILLETTE REPS ADVANCING PROPOSED SCHEME BELIEVE THAT ONCE VARIOUS ISSUES IRONED OUT HERE, FINAL APPROVAL OF INVESTMENT BY GILLETTE HEADQUARTERS MAY BE DEPENDENT ON WHETHER OPIC AGREEMENT WILL HAVE BEEN CONCLUDED.

6. WILL REPORT FURTHER WHEN OFFICIAL BDG RESPONSE TO PROPOSED EXCHANGE OF NOTES IS RECEIVED.
BOSTER

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